

### Remarks

Applicant respectfully traverses the rejections and their underlying bases (particularly the argumentative “plainly teaches” bases). The Office Action fails to “plainly” explain how the prior art is believed to correspond to Applicant’s invention and fails to present any argument or evidence of motivation for asserting the combined teachings. While the Examiner may have some other basis in mind, Applicant cannot discern any rationale that is not presented in the Office Action. Accordingly, Applicant submits that the newly proposed modification of the ‘418 reference fails to support a *prima facie* rejection of the claimed invention. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The final Office Action dated December 1, 2005, indicated that claims 1-24 stand rejected under 35 U.S.C. § 103(a) over Yacenda *et al.* (U.S. Patent No. 5,822,418) in view of Munday *et al.* (U.S. Patent No. 6,480,593).

More specifically, the newly proposed modification of the ‘418 reference fails to be explained in any manner that could be used by Applicant to understand the asserted correspondence to the claimed invention. The Munday ‘593 reference appears to be used solely for teaching that a telephone system can communicate over the Internet or via PSTN in response to some type of telephone-system operation. The Office Action does not explain which modes from the ‘418 reference are being used in combination with this aspect of the Munday ‘593 reference. By presenting this combination of teachings in this manner (for a hypothetical prior-art embodiment), it is impossible to discern how any of the claims are being read on this hypothetical prior-art embodiment.

At best, it seems clear that the only rationale modification, as asserted in the Office Action, would be to use the Internet communication (from the Munday ‘593 reference) in response to the mode of the ‘418 reference in which the telephone system reports whether the absence/presence of the person to the telephone-system operator are being used in combination with this aspect of the Munday ‘593 reference (as cited by the Examiner at “column 23, line 1 - column 24, line 51”). As taught by the ‘418 reference, the telephone-system operator is in the same facility as the telephone system. Thus, to add the cited teaching of the Munday ‘593 reference, the ‘418 reference would teach that the telephone system would communicate with its operator over the Internet -- which is

illogical especially when considering that the '418 reference concerns a private branch exchange that is operated within a facility.

Accordingly, there would be no correspondence to the claimed invention because even with the Internet added to the '418 reference, there would be no correspondence to the limitations that concern "communicating via the Internet in response to the first or second operating mode." This follows since the Office Action attempts to use the '418 reference's communication mode in which the telephone system reports the absence/presence of the person to the telephone system internal-facility operator without use of the Internet. Thus, with deference to the Office Action's ambiguous explanation of the prior art modes, this hypothetical prior-art embodiment does not correspond to the invention claimed.

Without a presentation of correspondence to each of the claimed limitations, the rejection is improper. Applicant accordingly requests that it be withdrawn.

Moreover, the Examiner fails to present any evidence of motivation that a skilled artisan would make the proposed combination. The Examiner mistakenly asserts (at the last line of page 3) that the '418 reference already teaches communicating via a PSTN. However, the '418 reference makes no reference to a PSTN and instead communicates via a PBX, and the above discussion explains that the '418 reference has no mode useful for communicating with the inside-facility operator over the Internet. No evidence has been provided that any other mode of operation or method of communication is necessary or would be advantageous to the '418 teachings. The mere fact that alternative methods exist, such as that alleged by the Examiner in the '593 reference, is not evidence of motivation to alter the existing communication system of the '418 teachings. Without a presentation of motivation to modify the '418 reference, the Section 103(a) rejection is improper, and Applicant requests that the rejection be withdrawn.

Applicant submits that each of the pending claims (claims 1-24) suffer the same or worse deficiencies because the difficulty in discerning the rationale for the rejections increases as the limitations of the claims increase.

Accordingly, Applicant respectfully requests that the rejections (and their finality) be removed and, if the Examiner believes that a Section 103(a) rejection can be fairly presented, that rationale for the rejection be provided in sufficient detail for Applicant to

ascertain the specific correspondence and evidence of motivation (with citations to the prior art) as required (*e.g.*, by 35 U.S.C. §132).

In view of the above discussion, Applicant believes that the rejection has been overcome and the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

CRAWFORD MAUNU PLLC  
1270 Northland Drive, Suite 390  
St. Paul, MN 55120  
651/686-6633

Dated: January 31, 2006

By: 

Robert J. Crawford  
Reg. No. 32,122  
Erin M. Nichols  
Reg. No. 57,125